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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 GRAEME DONALDSON,

12 Plaintiff,

13 vs.

14 CALENERGY OPERATING
15 CORPORATION, a Delaware corporation;
16 BERKSHIRE HATHAWAY ENERGY
COMPANY, an Iowa corporation,

17 Defendants.
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Case No.: 16-CV-1246 DMS (WVG)

**JOINT DISCOVERY PLAN,
FRCP RULE 26(f)**

CMC: September 16, 2016
Time: 9:00 a.m.

Complaint filed: May 25, 2016
Trial Date: None Set

22 Plaintiff Graeme Donaldson (“Plaintiff”), through his attorneys of record, James C.
23 Mitchell and Daniel M. Gilleon of The Gilleon Law Firm; and Defendants CalEnergy
24 Operating Corporation and Berkshire Hathaway Energy Company (collectively
25 “Defendants”), through their attorneys of record, Craig A. Schloss and Aimee E. Axelrod
26 of Jackson Lewis P.C., submit the following report and joint discovery plan:

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1 A. The parties made the required FRCP Rule 26(a) initial disclosures on
2 September 2, 2016.

3 B. The parties have exchanged settlement demands and offers, as required, that
4 show the parties are far apart from a resolution of the case. The Early Neutral Evaluation
5 Conference is scheduled for September 16, 2016. If the case cannot be settled then, the
6 parties do not believe an early, prompt resolution is possible.

7 C. No parties remain to be served. The plaintiff does not contemplate
8 amending the complaint. Defendants anticipate pursuing counterclaims against Plaintiff
9 if the case does not settle at the Early Neutral Evaluation Conference and seeking to
10 amend their Answer to Plaintiff's Complaint accordingly.

11 D. The parties do contemplate the need for a protective order regarding
12 confidential information and will cooperate to reach an agreement for such an order. The
13 parties will file a joint motion and stipulation as soon as practicable.

14 E. The parties contemplate no issues involving privileges.

15 F. The parties have discussed issues related to preservation of relevant
16 evidence and there are no areas of disagreement.

17 G. The parties contemplate the need for electronic discovery by Defendants as
18 described below and are currently working to agree on parameters and a protocol for this.

19 H. The parties agree that discovery will be needed on the subjects of Plaintiff's
20 claims for alleged violation of Cal. Labor Code section 11102.5(b) and public policy by
21 Defendants' terminating Plaintiff's employment, Plaintiff's claim to recover a penalty
22 from defendants under Cal. Labor Code sections 11102.5(f) and 2699(a), Plaintiff's
23 claimed damages and alleged attempts to minimize such damages, as well as the defenses
24 and counterclaims raised by Defendants. The discovery will consist of the following:

25 1. Written discovery by Plaintiff to Defendants, including interrogatories
26 and a request to produce documents concerning Plaintiff's employment
27 performance/history with Defendants, matters concerning the Defendants' investigation
28 of his alleged misconduct, Defendants' terminating Plaintiff's employment and alleged

1 retaliation by Defendants for Plaintiff's engaging in protected activity under Cal. Labor
2 Code section 1102.5(b);

3 2. Written discovery by Defendants to Plaintiff, including interrogatories
4 and a request to produce documents concerning Plaintiff's alleged protected activity, his
5 communications with his subsequent employer and potential subsequent employers,
6 Plaintiff's prior work history and qualifications, Plaintiff's damages and alleged
7 mitigation efforts;

8 3. Electronic discovery by Defendants from Plaintiff's personal
9 computers and other electronic devices consisting of a forensic examination directed to
10 reveal activity involving Defendants' confidential, proprietary, and trade secret
11 information obtained during Plaintiff's employment;

12 4. Plaintiff plans to take the depositions of Defendants' employees
13 William Fehrman, Joseph Moore, Rich Lovig, Burt Short, Anetha Lue, Erin Maddy,
14 Frank Perkins, and Josh Hawk.

15 5. Defendants plan to take the deposition of Plaintiff, Kevin Kelley,
16 General Manager at the Imperial Irrigation District, Plaintiff's supervisor at his
17 subsequent employment with the Imperial Irrigation District, a person most
18 knowledgeable for the Imperial Irrigation District, and potentially additional witnesses
19 identified through other discovery including damages and mitigation witnesses.

20 I. Other than providing initial disclosures, no discovery has been taken to date
21 and the parties contemplate no proposed limitations or modification of discovery rules,
22 nor have they identified any potential discovery disputes.

23 J. Defendants contemplate filing a summary judgment motion they believe will
24 dispose of all the plaintiff's claims.

25 K. After discovery is complete, private mediation may be possible.

26 L. Plaintiff and Defendants have demanded trial by jury. Plaintiff will agree to
27 a magistrate judge presiding over trial, but Defendants decline.

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1 L. The parties suggest the following proposed case management dates:
2 1. Fact discovery cutoff: February 28, 2017;
3 2. Expert designations and disclosures: first exchange on January 15,
4 2017; second, rebuttal exchange on January 31, 2017;
5 3. Expert discovery cutoff: April 15, 2017;
6 4. Filing of dispositive motions: March 31, 2017;
7 5. Settlement conference, pre-trial conference and trial in June and July
8 2017.

9 Respectfully submitted,

10 DATED: September 9, 2016

11 THE GILLEON LAW FIRM

12
13 By: /s/ James C. Mitchell

14 James C. Mitchell

15 E-Mail: jcm@mglawyers.com

16 Attorneys for Plaintiff

17 GRAEME DONALDSON

18 Respectfully submitted,

19 DATED: September 9, 2016

20 JACKSON LEWIS P.C.

21
22 By: /s/ Craig A. Schloss

23 Craig A. Schloss

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27 Attorneys for Defendants

28 CALENERGY OPERATING CORPORATION

and BERKSHIRE HATHAWAY ENERGY

COMPANY